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REMARKS

Applicants respectfully request reconsideration of this application, and reconsideration of the Office Action dated March 28, 2002 (Paper No. 9). Upon entry of this Amendment, claims 1-18 will remain pending in this application. Claims 2-8 and 11-16 are withdrawn. Furthermore, claim 19 is newly added. The amendments to the claims and new claim 19 find support throughout the specification and the original claims. No new matter is incorporated by this Amendment.

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The Office Action requires that Applicant submit an abstract of the disclosure on a separate sheet of paper.

Applicants respectfully submit that an English language abstract appears on the PCT publication, and since it was found in compliance with PCT Rule 11.4, there is no need for a replacement abstract. *See MPEP 1893.03(e)*.

* * *

Claims 10, 17, and 18 are rejected under 35 U.S.C. § 112, second paragraph, as purportedly being indefinite. Applicant respectfully traverses.

The Office Action asserts that the term “preferably” in claim 10 renders the claim indefinite. In response, claim 10 has been amended removing the word “preferably” and the elements that follow. New claim 19 has been added which recites the elements originally recited after the term “preferably” in claim 10.

The Office Action also asserts that claim 17 is indefinite because it does not set forth “formula (II).” In response, claim 17 has been amended so that it sets forth formula (II).

Applicant notes that the amendments to claims 10 and 17 are formal in nature as they address language commonly used in European patent claims. The amendments place

the claims in conformance with standard U.S. patent practice. Accordingly, the amendments to claims 10 and 17 are not to be construed as narrowing the scope of the claims for purposes of the Festo decision.

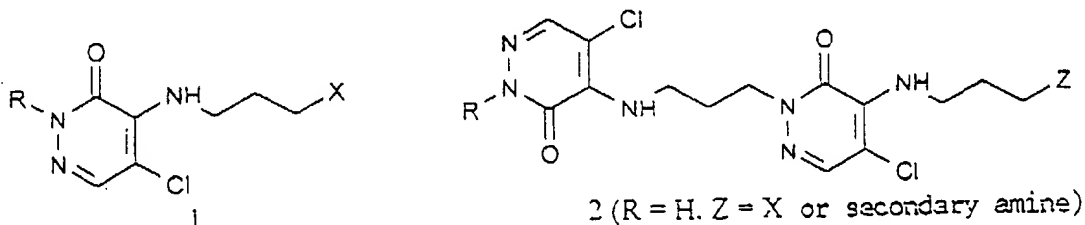
The amendments to the claims and the above Remarks overcome this rejection. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

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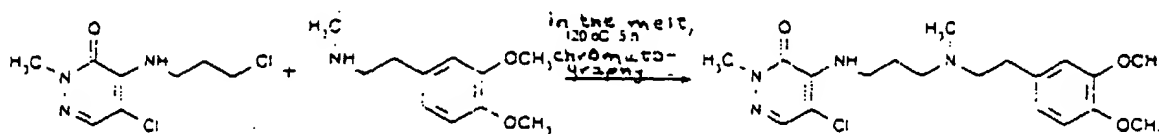
Claims 1, 9, 10, 17, and 18 are rejected under 35 U.S.C. § 103(a) as purportedly obvious based on Zara et al. (GB 2 262 526). Applicants respectfully traverse.

The Office Action asserts that Zara teaches each element of the claimed invention except that the reactant and resulting product are methylated at the 2 position of the pyridazinone ring and unsubstituted on the phenyl ring. However, the Office Action concludes that modifying the reactant of Zara to result in Applicants' claimed invention would be obvious in view of the general teachings of Zara.

Applicants respectfully disagree with the conclusion that it would have been obvious to modify the reactant of Zara as suggested by the Office Action. While it is true that tertiary amines can be prepared by the alkylation of secondary amines, this is only relevant if the reaction is carried out by using pyridazinones of the general Formula (1) (as shown in Zara) in which the R is other than a Hydrogen. This is because if R is hydrogen there is a high probability of self-alkylation reaction and the formation of derivatives of two different types:



Zara only contains one example for making 4-(ω-chloro-alkylamino)-pyridazone-2-one derivatives. Example 41 on page 29 shows the following reaction:



In this reaction, the N-2 nitrogen of the pyridazinone ring bears a methyl substituent and thus is protected against alkylation reactions. Applicants have carried out the reaction described by Example 41 of Zara and under the same reaction conditions. Applicants found that if the nitrogen atom N-2 bears a hydrogen atom, self-alkylation takes place on the N2 nitrogen atom and a number of by-products are formed. In other words, the reaction yields dimers, trimer and other derivatives which lead to a polymer resin. Applicants submit that those of ordinary skill would not have been motivated to modify the compound of Zara, which bears a methyl substituent on the N-2 nitrogen of the pyridazinone ring, with the compound used by Applicants, which bears a hydrogen on the N-2 nitrogen of the pyridazinone ring. Those of ordinary skill would understand that the methyl group protects against such alkylation reactions. The methyl bearing pyridazinone ring of Zara is simply very different in its chemical properties from the hydrogen bearing ring use in Applicants' invention.

The process described in Zara is unsuitable for the preparation of Applicants' compound. However, Applicants' have succeeded in suppressing the self-alkylation reaction. Applicants' invention enables the production of a tertiary amine selectively and with excellent yields. Contrary to the assertion of the Office Action, it could not have been foreseen that the reaction could be carried out in such a selective manner because, as is well known to those of ordinary skill in the art, the N-2 nitrogen can be easily alkylated.

In other words, there is nothing in the teachings of Zara which provides any motivation to those of ordinary skill in the art to modify the method described by Zara as suggested by the Office Action.

The amendments to the claims and the above Remarks overcome both of these rejections. Accordingly, reconsideration and withdrawal of both rejections are respectfully requested.

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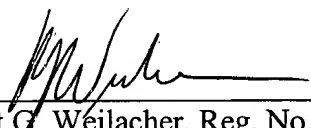
Applicants respectfully submit that this Amendment and the above remarks obviate the outstanding rejections in this case, thereby placing the application in condition for immediate allowance. Allowance of this application is earnestly solicited.

If any fees under 37 C.F.R. §§ 1.16 or 1.17 are due in connection with this filing, please charge the fees to Deposit Account No. 02-4300; Order No. 032340.004.

If an extension of time under 37 C.F.R. § 1.136 is necessary that is not accounted for in the papers filed herewith, such an extension is requested. The extension fee should be charged to Deposit Account No. 02-4300; Order No. 032340.004.

Respectfully submitted,
SMITH, GAMBRELL & RUSSELL, LLP

By:

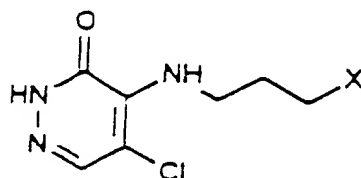

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MARKED-UP PREVIOUS VERSION OF THE AMENDED CLAIMS

10. (Amended) A process as claimed in claim 9, which comprises using as solvent acetone, acetonitrile, or dimethylformamide and as acid binding agent an alkali carbonate, an alkali hydrogen carbonate or an amine[, preferably triethylamine or an excess of the reagents of formula (IV)].

17. (Amended) A [Compounds] compound of the general formula (II),



wherein X stands for a leaving group.